vss

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
APPELLATE SIDE CIVIL JURISDICTION

WRIT PETITION NO.8170 OF 2003

Shri Manohar Gurappa Koparde ... Petitioner

V/s.

Maratha Mandir & Ors. ... Respondents

Mr.Mihir Desai for Petitioner
Mr.S.R. Nargolkar, AGP, for Respondent Nos.4 and 5

CORAM: **V.G. PALSHIKAR, Ag.C.J &**
SMT.NISHITA MHATRE, J.

DATED: **FEBRUARY 16, 2006**

P.C.:

. By this Petition, the Petitioner has impugned the action of the Respondents in recovering from the Petitioner a sum of money which according to the Respondents was wrongly paid to him by way of higher scale. Factually this payment which is alleged to be wrong was done for 23 years and on realisation thereof, it appears that recovery from the petitioner was sought to be commenced. Hence, this Petition was moved and rule was issued and recovery stayed.

2. Today when the matter reached for final hearing and when heard, it appeared from the records that the Petitioner was never given any notice to show cause why such recovery be not made from him because of his

incorrect fixation in a wrong grade done 23 years ago. According to us, it is obvious that it is in gross breach of the principles of natural justice. The order in such circumstances is not tenable.

3. However, the State and the other respondents also have the right to recover payment wrongly made following due process of law which in the minimum would be issuance of a show-cause notice and grant of adequate opportunity to meet the allegations in the notice. Reserving this right to the Respondents, the impugned order is set aside. Petition is accordingly disposed off.